

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
 Amendment of Section 73.202)
 of the Commission's Rules)
 Table of Allotments)
 For FM Broadcast Stations)
 (Danville and Nonesuch, KY))

RM-10145

MM Docket No. 01-169

To: Chief, Allocations Branch

REPLY COMMENTS IN SUPPORT OF PROPOSAL
TO PROVIDE NONESUCH ITS FIRST LOCAL TRANSMISSION SERVICE

Clear Channel Broadcasting Licenses, Inc. ("CCBL"), licensee of WHIR-FM, Channel 296A, Danville, Kentucky, Facility ID No. 52309 (the "Station"), by its attorneys, hereby submits these reply comments in support for the above-referenced Notice of Proposed Rule Making (the "Notice") which has recommended the following changes (collectively, the "Proposal"):

- a) the modification of the Commission's Table of Allotments for FM Broadcast Stations (Section 73.202 of the Commission's Rules) to: (i) delete Channel 296A from Danville, Kentucky, and (ii) add Channel 296A to Nonesuch, Kentucky; and
- b) the modification of the license of WHIR-FM to specify operations on Channel 296A in Nonesuch, Kentucky, in lieu of operation on Channel 296A in Danville, Kentucky.

Grant of the Proposal would provide first local aural transmission service to Nonesuch, Kentucky. Nonesuch is widely recognized throughout its region as a distinct "geographically identifiable population grouping," and, thus,

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under Commission precedent, is a community deserving its own local transmission service.

On May 24, 2001, CCBL filed its Petition for Rule Making that outlined the many reasons in favor of the Proposal (the “Petition”). On September 17, 2001, in response to the Commission’s *Notice*, CCBL timely filed comments that incorporated the Petition in its entirety and detailed further information demonstrating that Nonesuch is a community deserving of its own local transmission service under relevant Commission precedent (the “Comments”). CCBL affirmed in the Comments that it intends to apply for a construction permit for Channel 296A to specify operations for the proposed community upon adoption of the Proposal. CCBL has not been served with any other comments to this proceeding, and no other comments appear on the Commission’s electronic database. Accordingly, the Proposal to bring Nonesuch its first local transmission service is unopposed.

More to the point, as the Comments noted, objective indicia and subjective factors independently (as well as collectively) demonstrate that Nonesuch is a distinct community that merits its own aural transmission service. Objectively, Nonesuch has an identifiable geographic location and a year-round appreciable population, is recognized by Woodford County government as a seat of a voting precinct, is described by the Woodford County Chamber of Commerce as a separate business community with stores that respond to the needs of Nonesuch residents, and has a number of entities – including Nunsuch Grocery and Nonesuch Farm --

that clearly associate themselves with Nonesuch. Nonesuch also has its own branch of the county fire department, its own tourist attraction – the Irish Acres Gallery of Antiques -- and a distinct history.

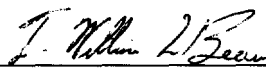
Subjectively, the residents of and near Nonesuch readily identify Nonesuch as a separate and distinct community. As the Comments detail, a number of entities associate themselves (in their names or advertising) with Nonesuch. Even more importantly, more than fifty local residents, through unchallenged declarations or petitions submitted with the Comments, have affirmed Nonesuch's distinct community status. Certainly, such residents are in the best position to know whether Nonesuch is a bonafide community: several of the dozen declarations submitted with the Comments were signed by persons who had lived in Nonesuch for 20 or more years, including one who attested that she had lived in Nonesuch for the last half-century.

In light of such extensive objective and subjective indicia in favor of Nonesuch's community status, the totality of circumstances compels the conclusion that the community of Nonesuch deserves its own local transmission service. Moreover, as noted in the Petition's Technical Statement, the Proposal will more than triple the number of persons served by WHIR-FM, with a net gain of nearly 240,000 persons, and will eliminate two existing short-spacings, without depriving Danville of its sole local transmission service.

Accordingly, the Commission should adopt the Proposal as promptly as possible.

Respectfully submitted,

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